

Missouri Attorney General
CHRIS KOSTER



2011 Annual Report

Missouri Attorney General
CHRIS KOSTER



Fellow Missourians,

I'm grateful to you for giving me the opportunity to serve as your Attorney General and to work every day on behalf of Missourians. The Attorney General's Office has had a very successful year representing your interests in 2011. To give you a better understanding of all that our office does to protect Missouri citizens, this Annual Report details what each division of the Attorney General's Office accomplished last year. Here are a few examples:

- The office has been very active in the Joplin community since the May 22, 2011, tornado. We sent Assistant Attorneys General to Joplin within 48 hours of the tornado, to give direct assistance to residents and to investigate any suspicions of price-gouging or scams. We staffed a mobile office in Joplin for nine months after the tornado, and are still following up on consumers' questions and complaints. We filed lawsuits against a landlord, multiple motor vehicle towing companies, and two different entities claiming to be collecting charitable funds to help survivors. We have already obtained restitution for consumers in a number of cases.
- We protected the safety and wellbeing of Missourians by prosecuting more than 55 homicide cases and many other cases involving child molestation, sexual abuse, rape, kidnapping, arson, domestic assault, driving while intoxicated, identity theft, burglary, public corruption and financial exploitation of the elderly.
- We identified and prosecuted Medicaid fraud cases, bringing more than \$20 million back to the state that had been stolen by Medicaid fraud.
- We protected Missouri's land, air and waterways in more than 1,000 legal matters.
- We handled more than 22,000 complaints into our no-call hotline, and filed lawsuits against nine businesses for breaking Missouri's no-call laws.

Thank you for allowing me the privilege of serving as your Attorney General. I invite you to contact my office if there is anyway we can assist you.

Respectfully,

A handwritten signature in black ink that reads "Chris Koster". The signature is stylized with a large, bold "C" and a long, sweeping horizontal line at the end.

CHRIS KOSTER
Attorney General



Promoting Internet Safety

Attorney General Koster makes internet safety for young people a priority. Beginning in 2010 Attorney General Koster directed Public Education Director Tom Durkin to give public-service presentations to students and parents throughout the state.

In 2011, Tom Durkin offered 175 Internet safety presentations at 42 different schools, speaking to nearly 12,000 students and parents. These presentations cover a range of topics associated with Internet safety including identity theft, cyber-bullying, sexting and information about social network sites such as Facebook and MySpace.

"The Internet opens up a world of possibilities for our young people. But it can also open them up to a world of danger. My office will continue to warn children and parents throughout the year about possible dangers on the Internet, and fight to keep Internet content appropriate."

Attorney General Chris Koster





Agriculture and Environment

The Agriculture and Environment Division aggressively protects Missouri's natural resources. The Attorney General's Environmental attorneys take legal action to stop pollution of the state's air, water and soil through injunctions, fines, penalties and in the most serious cases, incarceration.

The division also works to protect and enhance agriculture and the quality of life for rural Missourians by enforcing the law and advocating responsible public policy.

Division attorneys represent the Department of Natural Resources (DNR) and its constituent boards and commissions that regulate the use of the state's air, land and waters. At any given time, the division has about 500 active cases, including enforcement referrals and administrative appeals before the DNR's commissions. Enforcement litigation is filed primarily in state courts to seek preliminary and permanent injunctions to ensure compliance with Missouri's environmental laws.



In 2011, the division recovered more than \$750,000 in penalties, damages and costs from cases in 75 Missouri counties and the city of St. Louis.



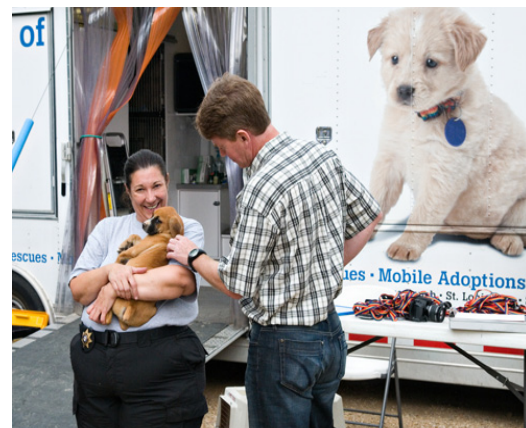
Agriculture and Environment (continued)

Highlights:

The Attorney General continued his Clean Water Initiative in 2011, which focuses the division's efforts on protecting Missouri's lakes, rivers and streams. As a part of this Initiative, the division worked with DNR on the Lake of the Ozarks enforcement initiative. DNR referred 38 violators to the Attorney General's Office. The division has filed 22 cases and resolved 10 others without the need for a filed case. In addition in 2011, the Attorney General issued his report on the Lake of the Ozarks Symposium, which focused on steps to maintain the long term water quality at the Lake and maintain its value as an asset to the state. The report included twelve recommendations for improving the Lake's water quality. These recommendations formed the basis for significant legislative action in the 2011 legislative session.

The Attorney General, in conjunction with the Department of Agriculture, continued an emphasis on Prosecution Bark Alert, an effort to eliminate illegal and substandard dog breeding operations. In response to the passage of the Canine Cruelty Prevention Act in April, the Attorney General formed the Canine Cruelty Prevention Unit. The Canine Cruelty Prevention Act strengthened state enforcement and oversight of dog breeding operations. The Canine Cruelty Prevention Unit provides immediate support for the Department of Agriculture's rescue efforts and addresses the consumer protection violations that often result from the sale of dogs from substandard operations. The Attorney General's Office has assisted the department in an effort that has resulted in the rescue of more than 5,500 animals. The Attorney General also established a web page that allows the public to report incidents of abuse to animals.

The Agriculture and Environment Division resolved cases netting actual receipts of \$746,731.34 in 2011 that have been processed through the Financial Services Division. In addition, \$7,282.70 was collected for the Department of Agriculture.



Other Highlights:

- In 2011 the Agriculture and Environment Division won or resolved on terms favorable to the state (or obtained penalties and/or environmental relief) more than 95 percent of our cases.
- The Agriculture and Environment Division worked on more than 1,058 legal matters in 2011.
- The Agriculture and Environment Division opened 263 cases in 2011.
- The Division resolved 501 cases in 2011.



Consumer Protection Division

The Attorney General's Consumer Protection Division has moved Missouri toward a more open and honest marketplace since the adoption of Missouri's Merchandising Practices Act 42 years ago. The division also serves a vital role in enforcing Missouri's antitrust, securities, telemarketing, nonprofit, charitable trust, and foundation laws.

In addition to having the authority to initiate both civil and criminal prosecutions against wrongdoers, the Attorney General is responsible for investigating unfair and deceptive business practices. Our investigators receive and review complaints, assist in issuing pre-litigation subpoenas, and assist in search warrant applications.

In 2011, the Consumer Protection Division responded to 75,550 consumers who contacted the office either to lodge a complaint or to request information. Division staff recovered more than \$4 million in restitution through investigations and informal mediation with businesses. Through actual litigation on behalf of Missouri citizens, the division obtained 48 formal settlement agreements, injunctions, or other judgments preventing deception, unfair practices, investment fraud, anti-competitive conduct, and violations of the telemarketing (No-Call) laws, along with monetary recoveries for consumer restitution totaling another \$6.7 million.

TOP TEN CONSUMER SCAM LIST

1. **NO-CALL COMPLAINTS** (22,225 complaints) – On average, consumers file approximately 89 complaints against telemarketers each working day. Koster warns consumers to be wary of giving any financial information over the telephone and to do so only when the consumer initiates the call.
2. **DEBT COLLECTORS** (1873 complaints) – The Attorney General's Office experienced an increase in the number of complaints filed against debt collectors in the last year. Many consumers indicate they are being harassed for debts they may not even owe. Others claim the debt collection agencies are abusive, threatening, and include repeated calls when attempting to collect a debt. Koster encourages consumers to be aware of their rights and to file complaints with his office if they believe they are being illegally harassed by debt collectors.
3. **TELEPHONE CRAMMING and BILLING** (1281 complaints) – "Cramming" is when a consumer receives a charge on his phone bill for services he did not order. Consumers should thoroughly review their telephone bill each month for evidence of cramming, which can include charges as small as \$1 or \$2. The Attorney General's Office also received many complaints regarding unauthorized fees from third parties on their telephone bills. Koster advises consumers who notice unwarranted charges to contact their carrier and request that the charge be removed and a refund issued.
4. **CREDIT AND DEBIT CARD** (1126 complaints) – A fourth major category of complaints by consumers in 2011 was unauthorized charges on credit and debit cards. Scams such as these can occur by telephone, email, or text messaging. The Attorney General recommends that consumers never authorize direct bank account debits or reveal their bank account number over the phone. Federal law grants consumers the right to challenge some unauthorized charges, but the challenge must be made in writing within 60 days of the charge appearing on the consumer's monthly statement. Koster encourages consumers to provide credit card information only to familiar merchants and only when the consumer initiates the call.



Consumer Protection Division (continued)

5. HOME REPAIR AND REMODELING (926 complaints) – Complaints against home improvements/home repair contractors are common every year. The typical scammer will go door-to-door asking for money up front from vulnerable consumers, often offering discounts for “left-over” product. Common door-to-door schemes involve driveway asphaltting, roof and chimney repairs, and remodeling work inside the home. The scam artists are often not licensed with the local municipality, are not from the area, do not provide a detailed contract, and usually demand cash payments. Consumers are advised to do business with local, reputable businesses; to require identification of the supervisor and a written estimate of all proposed work and final price; and, finally, to consult with a trusted friend or family member before authorizing any work.
6. MORTGAGE/FORECLOSURE/LOAN MODIFICATIONS (862 complaints) – Many struggling homeowners have filed complaints concerning foreclosure on their homes and the loan modification process. Common complaints include relentless requests for paperwork already provided by the borrower. The Attorney General’s Office has also received complaints from consumers who actually get temporary loan modifications but fail to get permanent solutions.
7. CABLE/SATELLITE SERVICES (762 complaints) – Many consumer filed complaints that cable and satellite companies lured them into contracts over the telephone with low promotional price quotes and then charged them three times as much as their monthly bills because of additional services that were not disclosed over the phone. Consumers also frequently complained about termination fees that were not clearly disclosed when the service was purchased.
8. LOTTERIES AND SWEEPSTAKES (751 complaints) – “Congratulations, you have just won \$10,000!” The Missouri Attorney General warns consumers to be leery of telephone calls, emails, or letters with statements like this. Scam artists often use the promise of a valuable prize or award to entice consumers to send money, buy overpriced products or services, or contribute to bogus charities. Fake foreign lottery promotions are the most common of these scams nationwide. Koster warns consumers never to pay to collect their winnings.





Consumer Protection Division (continued)

9. AUTOMOBILE REPAIR (604 complaints) – While most repair shops are honest, it is very easy for an unethical mechanic to convince the average person, who does not know much about his or her car, that unnecessary repairs are needed. People often have no idea that they have been ripped off. The Attorney General advises consumers to get a written estimate before repairs are made, to have repairs made by a certified mechanic who honors the existing warranty, and make sure repairs are guaranteed.

10. BUSINESS OPPORTUNITY SCAMS (556 complaints) – Lured by deceptive promises of easy income, many would-be entrepreneurs jump into the arms of con artists who claim “we are not just selling you a business, we put you IN business.” The Attorney General warns consumers that these types of scams can inflict major economic hardship. When promises of profits seem exceptionally attractive or when there is a hard sell to sign up immediately or risk losing the opportunity, the consumer should meticulously research the company and individuals involved before investing.



Other Highlights:

HELPING JOPLIN RECOVER

On May 22, 2011, the city of Joplin was struck by a terrifying tornado that claimed 160 lives, inflicted hundreds of injuries, and resulted in millions of dollars in property damage. In the wake of this tragedy, unscrupulous companies and individuals sought to take advantage of the storm’s victims.

Within forty-eight hours of the tragedy, Attorney General Koster positioned investigators and attorneys on the ground in Joplin. Personal contact was made with federal and local government authorities, as well as the on-site disaster teams of many insurance companies, to offer assistance. The Attorney General’s Office also took part in the Joplin Disaster Fraud Working Group, made up of federal, state and local law enforcement and government agencies. In addition, Attorney General’s Office personnel staffed a booth at an emergency shelter located at Missouri Southern State University, allowing the opportunity for citizens to make inquiries and directly file complaints. The services provided at the emergency shelter were subsequently relocated to the State of Missouri’s Resource, Recovery and Rebuilding Center, where citizens were assisted by AGO employees for the next nine months.



Consumer Protection Division (continued)

The Attorney General's Consumer Complaint Unit was mobilized to quickly respond to consumer complaints associated with the tornado. Immediate priority was given to these complaints, with a comprehensive and streamlined approach being formulated to address the tragedy. More than 700 consumer complaints were received by the Unit covering mortgage issues, landlord/tenant concerns, home repair services, charities, and motor vehicle towing services. Some situations were resolved by answering a consumer's question, others were mediated to resolution, but certain complaints necessitated legal action. Lawsuits were filed against a landlord, multiple motor vehicle towing companies, and two different entities claiming to be collecting charitable funds to help survivors. While certain lawsuits remain pending, courts have already ordered offenders to make restitution in several cases.

In addition to addressing the specific concerns of individual citizens, Attorney General Koster met with representatives of major mortgage companies to address the broader, unique challenges created by the tragedy in regard to fees, penalties, foreclosures, the need for expedited contact information, and mortgage payoffs. This proactive approach provided long-term aid to consumers.

The office also created and distributed widely "A Consumer's Guide to Recovering from Disasters." This packet of information addressed topics including price gouging, identity theft, charity fraud, and contractor scams.





Consumer Protection Division (continued)

NO CALL

The Attorney General's Office received more than 22,000 complaints in 2011 from people who have registered their land line telephone numbers with the office. The Attorney General filed lawsuits against nine companies, and was awarded more than \$1 million in penalties against businesses that violated Missouri's do-not-call laws. The office also obtained temporary restraining orders and injunctions against these companies to prevent them from further violating the law in Missouri.

CRACKING DOWN ON FRAUDULENT AUTO SERVICE CONTRACT BUSINESSES

In 2011, the Attorney General's Office reformed the automobile extended service contract industry and vigorously pursued several businesses for violations of the state's consumer protection laws.

In June 2011, the Attorney General obtained criminal indictments against Darrian Atkinson and Cory Atkinson, the two US Fidelis owners for unlawful merchandising practices, stealing, and insurance fraud. In addition to wrongfully withholding consumer refunds, the Atkinsons made numerous misrepresentations about the company and the coverage and that they were selling a warranty from the dealer that covered all repairs.

To address widespread problems in the marketing of auto service contracts, Attorney General Koster issued a set of recommendations in January 2011, based on the work of the Missouri Auto Service Contract Task Force that he created in March 2010. The Report recommended the passage of new Missouri laws covering the industry, including delivery of the contract within 30 days of the sale, licensing of all sellers of motor vehicle extended service contracts, ensuring a 20-day, free-look period of cancellation without restriction, and proper pro-rata refunds to consumers after that period. Recommendations also included prohibiting specific frauds and deception in the offer and sale of service contracts. These recommendations were adopted by the legislature and Governor Nixon signed Senate Bill 132 into law on July 8, 2011.

Two settlements were reached in 2011 against service contract marketers and their owners. Dealers Warranty, LLC, d/b/a Mogi, and its owner, Brian Marino, entered a Consent Judgment and Permanent Injunction with the Attorney General and the Department of Insurance, Financial Institutions, and Professional Registration on April 25, 2011. The \$125,000 settlement provided full restitution to additive-contract purchasers, prohibited the defendants from deceiving consumers in the sale of service contracts, and required the contracts to be clearly written and issued from providers registered with the Department.

St. Peters-based Vehicle Services, Inc., and its owner, Steven Chapa, settled with Attorney General Koster and the department for similar allegations of violating the Missouri Merchandising Practices Act. Chapa was required to pay \$25,000 in restitution and civil penalties for misrepresentations and omissions about the coverage offered for sale and sold to consumers.

Throughout 2011, Attorney General Koster maintained lawsuits against 10 other auto service contract telemarketers in the St. Louis area doing business nationwide. The Attorney General is prepared to litigate against any company that refuses to compensate consumers and cease unlawful practices.



Criminal Division

The Criminal Division represents the state in nearly every felony case, including capital cases appealed to the Missouri Supreme Court and the three districts of the Missouri Court of Appeals. The division also represents the state in civil appeals filed in Sexually Violent Predator commitment cases.

In 2011, the Criminal Division filed 860 appellate briefs in the courts of our state, advocating on behalf of the safety of Missourians. The vast majority of these briefs were filed in felony cases. A small number were SVP appeals and driver's license revocation cases.

NOTABLE CASES:

In the United States Supreme Court:

Missouri v. Galin Frye – The Attorney General argued this case in the United States Supreme Court on October 31, 2011. This case examines the question of whether a defense attorney is constitutionally obligated to communicate a plea offer to the defendant.

In the Missouri Supreme Court:

Capital Cases

Ernest Johnson v. State – The Court affirmed the denial of Mr. Johnson's post-conviction motion, in which Mr. Johnson sought to vacate his death sentences for the 1994 murders of three employees of a Casey's convenience store in Columbia. Mr. Johnson bludgeoned, stabbed, and shot his victims.

State v. Gregory Bowman – The Court affirmed the finding of guilt for Mr. Bowman's murder of Velda Rumfeld in 1977. Ms. Rumfeld was apparently sexually assaulted and strangled. The case went unsolved until a DNA match in 2007 connected Mr. Bowman to the murder.

Non-capital Cases

State v. George Biggs – The Court upheld Mr. Biggs's conviction of child abuse, and the Court rejected Mr. Biggs's challenge to the constitutionality of section 491.075—a statute that permits the admission at trial of out-of-court statements made by children under certain circumstances.

State v. Daniel Primm – The Court affirmed Mr. Primm's ten counts of crimes involving sexual abuse of a young relative, and the Court rejected Mr. Primm's claim that uncharged acts of sexual misconduct had been improperly included in the evidence at trial.

State v. Kasim Faruqi – The Court upheld Mr. Faruqi's conviction of attempted enticement of a child and rejected his claim that 566.151 was unconstitutionally vague.

Ricky Ross v. State – The Court upheld Mr. Ross's conviction for second-degree statutory rape and rejected his challenge to the constitutionality of the second-degree statutory rape statute because Mr. Ross failed to timely challenge the statute.



Criminal Division

State v. Ines Letica – The Court upheld the defendant’s assault conviction and concluded that an erroneous denial of one of the defendant’s peremptory challenges was not a structural error that compelled a new trial.

In the Missouri Court of Appeals:

State v. Edward Boeji – The Court upheld the defendant’s conviction for failing to register as a sex offender. The defendant, who was a registered offender in Florida, moved to Missouri and failed to register. The Court rejected the defendant’s claim that our statute was unconstitutional as applied to the defendant.

State v. Jimmie Walker – The Court upheld the defendant’s convictions of forcible rape and statutory rape in the first degree, rejecting the defendant’s claim that the convictions, which were based on a single act of forcible sexual intercourse, violated the defendant’s right to be free from double jeopardy.

State v. Quintin Gray – The Court upheld the defendant’s convictions of murder and abuse of a child. The defendant abused and ultimately murdered his girlfriend’s four-year-old child.

State v. Shy Bland – The Court upheld the defendant’s 31 sexual offenses, including 12 counts of forcible rape, committed against 12 different victims. The defendant was known as the “Westboro rapist,” and his convictions were obtained after DNA from the cold cases was connected to him decades after the crimes.

State v. Prentiss Fulton – The Court affirmed the defendant’s convictions of two counts of murder in the first degree, two counts of assault in the first degree, one count of robbery in the first degree, and five counts of armed criminal action.

State v. Kenneth Smoot – The Court upheld the defendant’s convictions for forcible rape and forcible sodomy. The defendant was a homeless man who assaulted a seventy-four-year-old woman who had cared for him and allowed him to come into her home.

State v. Robin Roggenbuck – The Court upheld the defendant’s convictions of five counts of possession of child pornography and rejected the defendant’s claim, based on his right to be free from double jeopardy, that he could only be convicted of one count.



Criminal Division

State v. Arlee Hayes – The Court upheld the defendant’s convictions of murder and abuse of a child. The defendant abused and ultimately murdered his girlfriend’s 22-month-old daughter.

State v. Theodore Kleine – The Court upheld the defendant’s conviction for a murder he committed in 1970. The defendant was originally tried in 1970 but his trial ended in a hung jury. In 2008, charges were re-filed after the defendant’s former wife told the police that the defendant had confessed the murder to her. The Court rejected the defendant’s speedy trial claim.

State v. Andrew Bernhardt – The Court upheld the defendant’s conviction for aggravated stalking and rejected his challenge to the constitutionality of section 565.225, the stalking statute.





Financial Services Division

The Financial Services Division includes a Child Support Modification Unit, which litigates to enforce and modify child support obligations, and a Recovery Unit, which recoups money owed to the state.

Recovery Unit Highlights

The Financial Services Division's Recovery Unit provides collection services to more than 40 state agencies and several divisions within the Attorney General's Office ("AGO"). Together, these agencies, commissions and AGO divisions refer to the Unit more than 100 types of debts for collection. The Unit also handles some non-collection legal work, including Income Maintenance cases. The attorneys in the Unit maintain heavy caseloads. The following summary describes some of our most common case types.

The Estate Recovery program seeks to collect a debt from a deceased debtor's probate estate. If there is not an estate open in the probate court of the county of death, the AGO, as a creditor, has one year from the date of death to force open an estate. These cases typically are Medicaid debts, but can also include Income Maintenance sources of aid.

The Bankruptcy recovery program seeks to collect a debt through a debtor's bankruptcy. The Unit files proofs of claim in bankruptcy proceedings. In addition the unit represents state agencies to protect a regulatory interest (i.e., an environmental concern, public safety, or licensing) that might be lost or impaired.

The Missouri Incarceration Reimbursement Act ("MIRA") recovery program seeks to collect funds from inmates in Missouri prisons to pay for their cost of incarceration.

The Third Party Liability recovery program seeks to collect a debt from the insurance proceeds to which the client's lien has attached. The State has lien and subrogation rights when a MO HealthNet recipient is entitled to recover from a third party such as another insurer (health insurance, liability, workers compensation, etc.) or a tortfeasor. Section 208.215, RSMo, allows the recipient to ask a court for relief from the lien, and the Recovery Unit defends the State when the recipient elects to do so. The circuit court has broad discretion to, and often does, significantly reduce or eliminate the lien.

The General Recovery program seeks to collect debts that do not fit into the other types of collections from a living debtor, who is not in bankruptcy, by setting up a payment plan or obtaining a judgment and garnishing the debtor's wages or bank accounts. This work is done for virtually every state agency, some state-wide offices, and funds, including: the Veteran's Commission; the State Lottery Commission; the Ethics Commission; the Departments of Agriculture, Corrections, Health and Senior Services, Labor and Industrial Relations, Mental Health, Public Safety, Natural Resources, Revenue, Social Services; the National Guard; the Secretary of State; and the Tort Victims Compensation Fund.

The Income Maintenance program is not a collection program but, rather, defends in circuit court decisions by the Department of Social Services to deny public assistance benefits to an applicant.



Financial Services Division (continued)

Child Support Unit

The child support unit handles work through a cooperative agreement with the Department of Social Services (DSS). Main case types include modifications, defensive cases (lawsuits that require an AGO defense because DSS is named as a party or it has provided services), establishment cases, enforcement cases, petitions for judicial review and registering out of state orders. Child support cases generate a large number of constituent inquiries that the unit handles in a prompt and professional manner.

Judicial Modifications, Defensive Cases, and Judicially Approved Modifications

The attorneys and staff who handle child support cases were responsible for bringing more than \$14 million to Missouri's children and families in 2011. The total amount of support generated from all modification, paternity, establishment and defense cases combined is \$14,487,687. The orders obtained by our office impacted the lives of 5,187 children in 2011.

With respect to the support modifications in 2011, we filed 1,722 modification cases (10% more than last year) and obtained 1,594 orders (17% more than last year). Of the 2,243 new referrals for Motions to Approve received in 2011, 969 were requested by the custodial parent, 1099 were requested by the non-custodial parent, and the remaining 175 were requested by the Family Support Division.





Financial Services Division (continued)

Enforcement Cases

Local prosecuting attorneys handle much of the front-line establishment and enforcement work for the DSS. Our child support unit handles this work in counties that do not have a cooperative agreement with DSS or when the local prosecutor has a conflict of interest. In addition, the unit exclusively handles other enforcement cases, including license suspensions, contempt cases, and cases where an employer or other payor will not honor an income withholding order.

| | Active Cases | Opened 2011 | Case w/Payments | \$ Recovered | Avg \$/Case |
|-------------------------|--------------|-------------|-----------------|--------------|-------------|
| Employer Non-Compliance | 123 | 48 | 7 | \$10,984.42 | \$1,569.20 |
| License Suspension | 13 | 18 | 0 | \$0 | \$0 |
| Contempt | 217 | 123 | 0 | \$0 | \$0 |
| Lien Enforcement | 5 | 10 | 0 | \$0 | \$0 |
| Other Case Types | 36 | 10 | 0 | \$0 | \$0 |
| TOTAL | 394 | 219 | 7 | \$10,984.42 | \$1,569.20 |

* Through December 31, 2011

Of the \$10,984.42 recovered in 2011, \$5,022.55 was generated through garnishments, and \$5,961.87 was generated through collection efforts.



Governmental Affairs Division

The Governmental Affairs Division protects citizens' safety and well-being by:

- Ensuring that professionals adhere to state laws and disciplinary rules.
- Enforcing state ethics and campaign finance laws.
- Enforcing state open meetings and records laws.
- Removing care givers who abuse or neglect vulnerable citizens.
- Prosecuting violations of nursing home standards.
- Helping mentally ill or physically challenged Missourians obtain guardians to help get care.
- Serve as council to the Missouri Commission on Human Rights in cases before the Administrative Hearing committee and subsequent appellate courts.
- Ensuring appropriate Medicaid reimbursement.
- Enforcing the provisions of the tobacco Master Settlement Agreement and state law requiring certain tobacco manufacturers to establish escrow accounts.
- Representing the Missouri Lottery Commission.
- Professional Licensing Unit

The Division's Professional Licensing Unit serves and protects the safety and well-being of Missouri citizens by ensuring that professionals who are required to be licensed by the state, such as: pharmacists, nurses, appraisers, engineers and veterinaries, adhere to state laws and disciplinary rules. In 2011, nearly 400 professional licensees were prosecuted for violations involving misconduct, negligence, or incompetence in the practice of their professions. Disciplines ranged from reprimands to revocations of licenses.

For example, the unit obtained the revocation of the license of a realtor who falsely inflated the sales price of a house in loan application documents to reflect a loan-to-value ration that would result in loan approval. The unit also obtained the revocation of the license of a peace officer who personally retained money turned in by a teenager after the teenager reported being involved in a scam involving the sale of stolen items.

Number of Cases Closed in 2011 per Professional Licensing Board

| | |
|---|----|
| Board of Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects | 31 |
| Office of Athletics | 1 |
| Board of Embalmers and Funeral Directors | 5 |
| Endowed Care Cemeteries | 1 |
| Board of Examiners for Hearing Instrument Specialists | 1 |
| Gaming Commission | 2 |
| Board of Geologists | 1 |
| Liquor Control | 8 |
| Board of Nursing | 9 |
| Board of Nursing Home Administrators | 19 |



Governmental Affairs Division (continued)

| | |
|---|------------|
| Board of Occupational Therapy | 1 |
| Board of Pharmacy | 23 |
| Peace Officer Standards and Training | 48 |
| Committee of Psychologists | 10 |
| Board of Podiatric Medicine | 3 |
| Committee for Professional Counselors | 4 |
| Real Estate Commission | 98 |
| Real Estate Appraisers Commission | 46 |
| Board of Respiratory Care | 11 |
| Committee for Social Workers | 16 |
| Tobacco Control | 1 |
| Office of Tattooing, Body Piercing & Branding | 11 |
| Board of Therapeutic Massage | 5 |
| Veterinary Medical Board | 8 |
| TOTAL | 363 |

Governmental Entities Unit

Attorneys in the Division's Governmental Entities Unit represent the Department of Social Services in efforts to recoup Medicaid funds and the Department of Health and Senior Services in enforcing civil monetary penalties against nursing home facilities. They also provide general counsel to the Missouri Lottery Commission and handle important litigation for various state agencies in all levels of federal and state courts and in state administrative hearings.

Department of Social Services – MO HealthNet Division

In 2011, the Governmental Affairs Division represented the Missouri Department of Social Services, MO HealthNet Division, in its efforts to recoup improperly paid Medicaid funds. The MO HealthNet Division referred 31 recoupment cases to the Governmental Affairs Division. Through litigation, the Governmental Affairs Division obtained authorization for the MO HealthNet Division to recoup more than \$670,000 in Medicaid funds including, in one case alone, \$213,421 in overpayments from a hospital facility.



Governmental Affairs Division (continued)

Department of Health and Senior Services

The Division represents the Department of Health and Senior Services and enforces civil monetary penalties against nursing home facilities for alleged violations of the law protecting the health, safety, and welfare of the vulnerable residents of these facilities. These allegations range from the failure to properly use a lift, causing a patient to fall, to failure to promptly correct a flaw in the fire alarm system. Some cases involve harm to residents, others involve potential harm. In 2011 a total of \$37,900 in penalties was collected against facilities for alleged violations.

Department of Elementary and Secondary Education

The Governmental Affairs Division in 2011 received more than 36 teacher discipline referrals from the Department of Elementary and Secondary Education and finalized 44 cases. As a result, teacher certifications were surrendered, suspended and, in some cases, revoked. Certifications were disciplined in cases where the Division proved teachers had committed crimes or engaged in unethical behavior crimes including sexual contact with students.

Missouri Commission on Human Rights

The Division obtains relief for victims of discrimination through its legal representation of the Missouri Commission on Human Rights (MCHR). The Division has approximately 50 active cases each year. In 2011, the Division obtained a \$25,000 settlement for a kidney dialysis patient against an employer for failure to hire the individual due to his disability and a \$49,000 award for an employee in Springfield after his employer terminated him after discovering he had discoid lupus. The Division also negotiated a settlement between MCHR and Metro Bi-State in St. Louis in which Metro agreed to make a donation to the Missouri Council for the Blind and install Automatic Vehicle Locator systems on the entire bus fleet, install new validation machines to provide auditory cues for visually impaired customers and rumble strips at all platform entry points for the visually impaired.

Open Government

In 2011, in an effort to promote and enforce open government laws, the Division responded to more than 100 inquiries per month regarding the Sunshine Law. Questions came from county and municipal employees, elected officials, and private citizens. Issues ranged from releasing public records to posting of meeting notices to proper reasons to close meetings. The Division also sent out hundreds of copies of a helpful booklet published by the Office entitled "Missouri Sunshine Law." The Division filed a circuit court action against one public governmental body; that litigation is pending. As a result of settlements in previous years, the Division continues to monitor the activities of two public governmental bodies for compliance with the terms of those settlement agreements.



Governmental Affairs Division (continued)

Tobacco Unit

The Tobacco Unit continues to vigorously investigate and litigate violations of the Tobacco Settlement Agreement Act. During 2011, the Tobacco Unit brought lawsuits against tobacco companies across the country and around the world. The Tobacco Unit resolved a total of 11 cases, resulting in judgments totaling nearly \$10 million.

In 2011 the Tobacco Unit utilized the provisions of Complementary Legislation (passed in 2010), to more efficiently enforce laws prohibiting the sale of unauthorized cigarettes and prohibiting the sale of cigarettes on which escrow has not been paid. For example, with the new provisions the Tobacco Unit successfully prosecuted claims on foreign manufacturer that had previously evaded service of process.

The Tobacco Unit has also maintained pursuit of a case brought by the major tobacco companies, who have continued to undermine the public health and the public restitution goals of the 1998 Tobacco Master Settlement Agreement (MSA) by attempting to withhold from the States almost 20% of the annual payments they owe the States, starting with the 2004 payment.

Since Missouri entered into the MSA, it has received nearly \$1.8 billion in payments from the tobacco companies that joined the MSA.

| EXECUTIVE SUMMARY TOBACCO SETTLEMENT TRUST FUND APPROPRIATIONS ACT | | SENATE FILE 515 |
|---|--|-----------------|
| RECEIPTS TRANSFER | A transfer paying money that is currently allocated to independent programs to the Settlement by the State's Health, Department of the Tobacco Settlement Trust Fund, including approximately \$10,000 (Senate Bill 1000) (Page 1, Line 4) | |
| INDEMNITY FOR OWNERS HEALTH INSURANCE | From the annual payments received by the Settlement Trust Fund, the amount of the Tobacco Settlement Trust Fund's (TSF) 100% through FY 2011, including approximately \$10,000 (Page 1, Line 14) | |
| TRUST FUND CONTINGENT APPROPRIATION | Relative to the amount of the settlement as to the 100% through FY 2011, the Settlement Trust Fund's (TSF) 100% (Page 1, Line 14) | |
| NONREVENUE CLAUSE | Relative to the amount of the settlement as to the 100% through FY 2011, the Settlement Trust Fund's (TSF) 100% (Page 1, Line 14) | |
| CONTINGENT EFFECTIVE DATE | Relative to the amount of the settlement as to the 100% through FY 2011, the Settlement Trust Fund's (TSF) 100% (Page 1, Line 14) | |
| ENACTMENT DATE | Relative to the amount of the settlement as to the 100% through FY 2011, the Settlement Trust Fund's (TSF) 100% (Page 1, Line 14) | |



Governmental Affairs Division (continued)

Mental Health Unit

The Mental Health Unit protects the health, safety, and welfare of Missourians receiving services through both the Department of Mental Health and mental health practitioners in the private sector by pursuing cases of alleged abuse and neglect, and unethical practice. The Unit also protects the public by petitioning for placement of Department of Mental Health forensic patients that ensures the appropriate level of security and oversight. Additionally, the Unit serves Missourians by obtaining guardians for individuals receiving Department of Mental Health services, and by participating in juvenile proceedings.

In 2011, the Mental Health Unit prosecuted more than 30 abuse and neglect cases and litigated approximately 40 guardianship cases, and 18 Medicaid eligibility and waiver cases.

As an example of how the Mental Health Unit protects Missourians, in one case the Division successfully substantiated a claim of abuse and neglect where a consumer's case manager, a Licensed Clinical Social Worker, documented that the consumer's apartment lacked a water heater, a toilet that would flush properly, air conditioning, and was infested with cockroaches, but did virtually nothing to assist the consumer. Seven months later the apartment building was condemned. The Missouri Court of Appeals, Eastern District affirmed the Department of Mental Health's decision substantiating one count of Class I Neglect against the social worker, who is now disqualified for life from employment by the Department of Mental Health or any of its contract providers and by the Department of Health and Senior Services or any of its contract providers or licensees.



Labor

The Labor Division attorneys provide general counsel and litigation services for the Missouri Department of Labor and Industrial Relations and its officers and agencies. The division also represents the state in crime victims' claims and workers' compensation cases of state employees, including claims involving the Second Injury Fund.

In 2011, the Labor Division opened 8,625 claims and obtained 5,076 dismissals.

The Labor Division calculated that the division saved the Second Injury Fund more than \$5.7 million in 2011.

Below are the 10 most significant cases for the Labor Division in 2011:

1. Deborah Gervich (surviving spouse of Gary Gervich) v Second Injury Fund
2. Cheryl Goad, deceased, Wesley Goad, Widower v. Treasurer of the State of Missouri as Custodian of the Second Injury Fund
3. Teresa Carkeek v. Treasurer of the Second Injury Fund
4. Kevin Hundelt v. Second Injury Fund
5. Kenneth Smith v. Second Injury Fund
6. Terri Elliott v. State of Missouri (CARO) and the Second Injury Fund
7. Vernon Howard v. Second Injury Fund
8. Michael Kwiatkowski v. ABC Supply and Second Injury Fund
9. Daniel Schmerber v. Second Injury Fund
10. Michelle Watson Spargo v. Second Injury Fund



Litigation Division

The Attorney General's Litigation Division defends the state and its elected officials, departments, agencies, and employees against hundreds of lawsuits each year. Division attorneys also handle some of the most complex legal issues facing the state, including defending constitutional challenges to state laws, advancing the state's interest in complex cases, defending suits brought against the Missouri Highway Patrol and its Troopers, defending the Boards of Police Commissioners and the police officers of the city of St. Louis and Kansas City, enforcing Missouri's prevailing wage, minimum wage, child labor laws and unauthorized alien workers laws, defending the state in employment and tort cases, promoting accessibility laws, and defending lawsuits filed by inmates.

In 2011, the Litigation Division closed 351 cases, including 91 lawsuits filed by inmates against the Department of Corrections and its employees. The work of the attorneys in the Litigation Division saved Missouri taxpayers approximately \$103,817,456.

NOTABLE CASES:

State of Missouri v. Nationwide Life Insurance Company A 10-year contract between Missouri and Nationwide for the management of MO's deferred compensation fund ended on 12-31-05. The contract had been renewed and amended multiple times during its 10-year duration. Nationwide argued that it had the contractual right, on termination, to withhold \$18.6 million, and it did so in June 2006 when the plan funds were transferred to the new provider. The State argued that the contract did not give Nationwide the right to withhold any amount of money on termination. The State sued Nationwide in Cole County Circuit Court. The AGO trial team positioned the case for a partial summary judgment on the key contract question of whether or not the contract clause which had, for a period of time, permitted Nationwide to withhold money on termination had survived the numerous amendments to the contract. Nationwide filed its own motion for summary judgment on all counts of the petition. The trial judge entered judgment in favor of Nationwide on all counts. The State appealed to the Western District Court of Appeals, which reversed the decision of the trial court and ordered it to enter judgment in favor of the State on the key contract issue, including pre-judgment interest at the statutory rate of 9%. The Court of Appeals' detailed 72-page opinion likely helped persuade the Supreme Court to deny Nationwide's motion for transfer. Because the statutory interest had been accumulating since June 2006, Nationwide paid the judgment plus interest and court costs - more than \$27 million.



Litigation Division (continued)

Midwest Coal v. Cabanas Midwest Coal sued former state employee Cabanas claiming his fraudulent statements caused it to decline going forward with a deal to purchase coal fines (coal slurry) from AFI. (AFI successfully sued the state in 2006, claiming tortious interference with business expectancy, and recovered approximately \$7.5 million in damages) Midwest claimed as its damages the lost profits it would have made from the eventual re-sale of the fines. Midwest retained economist John Ward, who calculated plaintiff's damages at between \$16.6 and \$17.5 million. Midwest filed a Motion for Summary Judgment, arguing the legal theory of offensive non-mutual collateral estoppel precluded Cabanas from contesting any facts which were at issue in the AFI trial. The trial team from the AGO opposed that Motion, and filed its own Summary Judgment, arguing that because Midwest Coal had never made a profit, it could not meet the legal standard under Missouri law to recover lost profits. The trial court in St. Louis County denied plaintiff's Motion and granted the Summary Judgment of the defense.

Roberts, et al., v. The Source for Public Data, LLP, et al., (including numerous individual employees of the Department of Revenue), USDC, WDMO, No. 08-4167-cv-c-NKL. This class action suit sought several million dollars in damages, alleging the sale of Missouri drivers' license information violated the Federal Drivers Protection and Privacy Act (DPPA). The Department of Revenue, pursuant to state law and through its employees who were named as defendants, had sold drivers' license information in bulk, electronic form to a co-defendant, who in turn sold the information to The Source of Public Data, who made the information available on its public website. The plaintiffs' alleged some of the drivers' licenses contained social security numbers. After the other co-defendants' settled with the plaintiffs, the state defendants successfully moved for Summary Judgment from the federal court judge.

Sexually Violent Predators

The division, together with the deputy solicitor general, has successfully defended numerous cases brought by sex offenders seeking removal from the State's registry and exemption from sex offender registration requirements. These efforts have helped ensure that sex offenders who are not entitled to removal remain subject to applicable registration requirements.

Unauthorized Alien Workers

The Attorney General's Office received 12 complaints in 2011 regarding unauthorized alien workers. Six of those were closed after the employers corrected the violations. One case remains open and the remainder were closed.



Litigation Division (continued)

Prevailing Wage Education

The Attorney General's Office made presentations across the state in 2011 to contractors and other interested parties regarding their responsibilities related to prevailing wage. The office developed model charging language for prevailing wage violations, which was shared with the local prosecuting attorneys across the state.

Promoting Accessibility Laws

In 2011 the Attorney General's Office continued to promote the Accessibility Initiative, a statewide community effort focused on education and outreach with the goal of improving accessibility. Based on discussions with disability-rights advocates, the Attorney General's Office sent a letter to all Missouri police chiefs to remind them of their ability to enforce accessible parking on private land open to public use. The Office also supplied an article for the newsletter of the Missouri Board of Architects, Professional Engineers, Professional Land Surveyors and Landscape, reminding architects of their legal obligation to comply with accessibility and other ADA requirements. After the Joplin tornado, the Division worked with the Missouri Department of Labor and Industrial Relations to ensure that information regarding accessibility would be included in the Rebuild Joplin Right seminar, which provided information to local contractors and others interested in the rebuilding efforts.





Public Safety Division

Public Safety Division attorneys assist local prosecutors in serious or difficult trials and grand jury proceedings. They also:

- Prosecute workers' compensation fraud and noncompliance cases
- Assist with the training of law enforcement officers and state troopers
- Prosecute abuse and neglect of nursing home residents and Medicaid fraud cases
- Seek the civil commitment of sexually violent predators
- Assist law enforcement and prosecutors with computer forensic examinations
- Represent the state in habeas appeals filed by convicted prisoners seeking release

Special Prosecutions Unit

At the end of calendar year 2011, the Public Safety Division had 435 active special prosecutions pending in 89 of Missouri's 114 counties and the city of St. Louis. Attorneys in the special prosecutions unit assist local prosecutors in complicated trials when directed by the Governor pursuant to Section 27.030, RSMo, or when they are appointed as special prosecutors by a court when there is a conflict of interest. This important legal work saved counties approximately \$2.4 million in 2011. The special prosecutions unit received 160 new criminal cases to investigate and prosecute from 61 different counties and the city of St. Louis, during the calendar year. More specifically, attorneys for the division worked on more than 55 homicide cases. Other types of cases handled by the unit included: child molestation, sexual abuse, rape, driving while intoxicated, kidnapping, arson, domestic assault, identity theft, financial exploitation of the elderly, burglary, and public corruption. Some examples of the cases handled by the unit are highlighted below.

Homicides:

State v. Angela Harvey and Chester Harvey (Audrain Co.) In 2009, the defendants kidnapped and then later murdered by asphyxiation, James McNeely, who had been living with them at their home in Audrain County. McNeely's body was found bound with wire in the back of a refrigerated truck leased to the Harveys. These defendants are husband and wife. Chester pled guilty to 1st degree murder and was sentenced to life in prison without the possibility of parole. Angela pled guilty to murder in the 2nd degree and was sentenced to life in prison. Their three sons were also convicted and sentenced for participating in the murder. Three other co-conspirators were convicted for assisting with the kidnapping of the victim.

State v. Jeffrey Thurman (St. Francois Co.) The defendant pled guilty to murder in the 1st degree and was sentenced to life in prison without the possibility of parole for the January, 2007, killing of Ricky Haynes. The defendant and an accomplice murdered Haynes by beating and strangling him. The body of Haynes was later found in a remote area of St. Francois County.



Public Safety Division (continued)

State v. Charles O'Neal (Howard Co.) The defendant was convicted of murder in the 1st degree and sentenced to life in prison without the possibility of parole for the February, 2007, killing of his ex-girlfriend's mother. The defendant, armed with a .22 caliber rifle, had gone to the home of his ex-girlfriend's mother's house expecting to find her. When he discovered she was not there, he became embroiled in an altercation with the mother, shot her in the head and then fled the scene.

State v. Daniel Thompson (St. Clair Co.) The defendant was convicted of 2nd degree murder and sentenced to life in prison for the August, 2010, stabbing death of James Vail. After a dispute with his ex-girlfriend earlier in the day, where the defendant received citations for domestic assault and peace disturbance, he went to the home of his ex-girlfriend where she and Vail were spending the night. The defendant slashed the ex-girlfriend's tires, then entered the residence and stabbed Vail to death with a single stab wound to the chest.

State v. Manuel Cazares (Marion Co.) The defendant was convicted after a jury trial of two counts of murder in the 2nd degree and was sentenced to serve two life sentences without the possibility of parole for the February, 2009, stabbing deaths of Amanda Thomas and Carl Epley. The defendant had entered the home of his ex-girlfriend and found her asleep in bed with Carl Epley, and stabbed them to death.

Child Abuse and Molestation:

State v. Kenneth Tomlinson (Madison Co.) The defendant pled guilty in November 2010 to multiple counts of statutory sodomy, sexual exploitation of a minor, and possession of child pornography. In February 2011 the defendant was sentenced to 3 consecutive life sentences. The defendant was captain of the Madison County Police Department and a Boy Scout troop leader, and ultimately admitted to sexual acts with two young boys who were in his troop.

State v. Orlando Stoner (Harrison Co.) The defendant pled guilty to three counts of statutory sodomy in the 1st degree for sexually molesting an 11-year-old male victim on multiple occasions and was sentenced to a total of 45 years in the Department of Corrections. The defendant had threatened the victim that he would kill him if he ever told anyone about the abuse.

State v. Matthew Randolph (Audrain Co.) The defendant was convicted of statutory rape in the 1st degree and statutory sodomy in the 1st degree, and was sentenced to a total of 75 years in prison. Over a period of years, the defendant had groomed and molested a 12-year-old family member while she visited him in the state of California. In June 2007 the defendant also committed various sexual acts on the child during a visit to Missouri.



Public Safety Division (continued)

State v. Allen Hause (Boone Co.) The defendant was convicted of two counts of tampering with a judicial officer and sentenced to serve a total of 14 years in prison. The defendant left voicemails on the home answering machine of a Boone County Circuit Court Judge. The defendant had an active warrant on a weapons charge pending in front of the judge at the time he left the messages.

Public Corruption Crimes:

State v. Nancy Pardon (New Madrid Co.) The defendant, the former New Madrid County Public Administrator, pled guilty and was convicted of three counts of felony stealing, and ordered to pay \$81,300 in restitution. The defendant stole funds from her wards, elderly residents of a New Madrid County retirement/nursing home.

State v. Jason Dean (Putnam Co.) The defendant, former district administrator of the taxpayer-funded Putnam County Ambulance District, pled guilty and was convicted of felony stealing, and ordered to pay \$41,000 in restitution. The defendant used the ambulance district's debit card to get cash at casinos in Missouri and Iowa for gambling purposes. The remaining theft was over a period of years, wherein the defendant manipulated funds to make the district pay more than \$30,000 in unauthorized medical insurance premiums for his family.

State v. Marie Brelsford (Caldwell Co.) The defendant, a former employee of the Caldwell County treasurer's office, pled guilty to and was convicted of one count of felony stealing, and ordered to repay restitution in the amount of \$725. The defendant eventually gave a confession to a Highway Patrol investigator after an audit was done.

Methamphetamine and Drug Crimes: (In 2011, Missouri law enforcement officials busted 2,096 meth labs throughout the state).

State v. Gerald Scrimshire (Macon Co.) The defendant pled guilty to attempting to manufacture methamphetamine and was sentenced to 7 years in prison. The defendant offered to show an undercover officer how to manufacture meth and was arrested on his way to the location where he planned to cook the meth.

State v. James Scott (Adair Co.) The defendant pled guilty to possession of Adderall, a controlled substance. The defendant, a persistent drug offender, was convicted and sentenced to 20 years in prison. The defendant was already on probation for a prior drug conviction at the time of his arrest.



Public Safety Division (continued)

State v. Joe Pat Carl (Bates Co.) The defendant was convicted of attempting to manufacture methamphetamine at his residence in St. Clair County and was sentenced to serve 10 years in prison. A confidential informant tipped local law enforcement and a search warrant was obtained. Numerous drug-related items were found at the residence, including surveillance cameras, pills, scanners, bags of white powder, and rock salt. The defendant was not home at the time of the search warrant, but was later arrested.



Workers' Compensation Fraud and Noncompliance Unit

The Workers' Compensation Fraud and Noncompliance Unit prosecutes fraud and misconduct involving workers' compensation. This Unit takes seriously its obligations to the state's business community to hold accountable those individuals who would steal from our workers' compensation system and undermine a sound business climate. Unit attorneys take action against employees attempting to fraudulently obtain workers' compensation benefits and against employers who violate the law by not obtaining mandatory workers' compensation insurance. Additionally, the Unit attempts to recover restitution for injured workers, insurance companies and the State's Second Injury Fund.

In 2011, the unit received 292 referrals from the Department of Labor for review, investigation and prosecution. These referrals represent an increase of 16 percent over 2010.

In 2011, attorneys filed criminal charges in 39 cases, appearing in 50 counties throughout the state. For the year, more than \$623,000 was assessed against violators for fraud and insurance noncompliance with actual monies collected from violators totaling \$601,706. In addition, attorneys saw the collection of more than \$56,257 in restitution for the State's Second Injury fund and other victims of workers' compensation fraud and noncompliance.



Public Safety Division (continued)

Medicaid Fraud Control Unit (MFCU)

The Medicaid Fraud Control Unit (MFCU) prosecutes fraud of the Medicaid program (Missouri MO-HealthNet) by healthcare providers, and prosecutes abuse or neglect of Medicaid recipients by caregivers. The MFCU receives referrals or tips on potential Medicaid fraud and patient abuse/neglect from citizens and state agencies. The MFCU investigates these allegations across the state and collaborates with local, state and federal agencies to prosecute those who steal from Medicaid or harm the vulnerable.

In calendar year 2011, the MFCU obtained judgments for the state totaling \$20,728,746.27. Additionally, the MFCU obtained seven state criminal convictions and assisted the United States Attorney's Office for the Eastern District of Missouri in obtaining two federal criminal convictions. During 2011, attorneys for the MFCU achieved advantageous settlements for the State of Missouri in 15 civil cases. Three notable cases are highlighted and summarized as follows:

Delmar Gardens Private Services (DGPS): This civil settlement resolved allegations that DGPS submitted claims to Medicaid for in-home health services that were not eligible for reimbursement under Medicaid rules and for submitting claims to Medicaid for reimbursement for in-home services provided when the workers were themselves ineligible to provide services or when the workers could not have personally provided the services. The settlement required DGPS to pay \$587,420 in restitution, civil penalties and reimbursement for investigative costs.

Beverly Hills Pharmacy: This civil settlement resolved allegations that Beverly Hills Pharmacy provided receipts to as many as 200 Medicaid recipients, so that the recipients could meet their "spend-down" requirement, and then Beverly Hills Pharmacy submitted claims to Medicaid for reimbursement in violation of Medicaid rules. The agreement required Beverly Hills Pharmacy to pay \$500,000 in restitution, damages, civil penalties, and reimbursement for investigative costs.

State v. Christopher Mayo, Sr.: This defendant was sentenced to 5 years in state prison after pleading to the felony of abuse of a person receiving health care. Mayo had been an aide at Levering Regional Health Care Center in Hannibal and admitted to causing physical injury to a resident by shoving him to the floor, striking him in the face, and dragging him down a hallway by his shirt.

As Medicaid fraud knows no borders, several civil settlements also resulted from national efforts undertaken by the states, through the National Association of Medicaid Fraud Control Units (NAMFCU).



Public Safety Division (continued)

Sexually Violent Predator Unit

The Sexually Violent Predator (SVP) Unit seeks civil commitment of sexual predators who suffer from a mental abnormality making them more likely than not to commit additional predatory acts of sexual violence. In 2011, attorneys in the SVP Unit ensured the civil commitment of 16 sexually violent persons. Attorneys for the Unit appeared in 14 different counties around the state. Fifteen of the commitments were obtained by jury trial and included lifetime child molesters, and sadistic rapists.

At the end of the year, attorneys in the unit had 37 active cases pending adjudication by trial and there were a total of 178 people committed under the SVP law. None of these predators will be released into Missouri communities until that person's mental abnormality no longer causes them to be likely to commit sexually violent offenses. A few notable cases resulting in the commitment of sexually violent predators included:

In re: Delmar Pogue (Madison Co.) In the 1980s, Pogue worked as a janitor at a school and was identified as having molested at least 12 child victims (9 boys, 3 girls) ranging in ages from preschool to 9 years-old. In 1986, Pogue pled guilty to sodomy and was placed on probation. In 1989, he was again caught, this time fondling two relatives, ages 5 and 11. He was again convicted and released in 1996. In 2001, Pogue was caught once more sodomizing two neighbor boys, ages 11 and 14, and was once again convicted of sexually violent offenses.

In re: Dean Morgan (Scott Co.) Morgan victimized more than a dozen children, mostly male and female relatives, before he was caught. Morgan also sought out little boys ranging in age from 8 to 10 in public parks and lured them to the bathroom to violate them. In 1988, Morgan was finally caught and charged with sexually assaulting three neighborhood children, a 6-and 10-year-old pair of boys and a 5-year-old girl. Morgan repeatedly has asserted that he has no idea if he can control his sexually violent behaviors towards children.

In re: Stephen Taylor (St. Louis City) Taylor was caught molesting a pair of 6 and 7-year-old neighbor girls in the 1960s, but was not prosecuted. In the 1970s, he was caught again exposing himself to a pair of teenage girls. In 1980, he gained access to a pair of neighbor girls and began molesting and raping the oldest, beginning at age 4, over a period of five years. When the victim's sister turned 5, he began to sexually assault her as well. Taylor later stated that the only reason he didn't have more victims was lack of opportunity.



Public Safety Division (continued)

Habeas Unit

Attorneys in the Habeas Unit defend the state in all habeas corpus actions filed by inmates in state and federal courts. Typically, these cases involve offenders filing lawsuits to challenge the basis and/or the duration of their custody. During 2011, attorneys in the unit defended the state's interest in 662 new cases in state and federal courts. This number represents an increase of 38 cases or 5 percent over 2010. The number of new cases arose uniformly in federal court, the Missouri appellate courts, as well as the Missouri trial courts. Habeas attorneys appeared and defended these actions in both districts of the federal courts in Missouri, the United States Court of Appeals for the Eighth Circuit, all three districts of the Missouri Court of Appeals, and the Missouri Supreme Court and in trial courts around the state.

The unit continues to play an important role within the criminal justice system in protecting the state's interest in inmate litigation.

Victim Services Unit

The Victim Services Unit provides assistance to crime victims with compassion and respect to help them understand their options, minimize their trauma, and stabilize their lives. Our advocates serve victims of crime and their families across the State of Missouri through home visits, court accompaniment and in helping them obtain victim compensation and other support as needed. Dealing with the aftermath of a violent crime can be overwhelming. The unit employs two full-time victim advocates to help reduce stress and make sure that the rights of crime victims are honored, and to also ensure that they have a strong voice in the criminal justice system.

In 2011, the unit served 632 victims in criminal prosecutions, making 1,959 different individual contacts. Additionally, the unit served 111 different victims associated with sexually violent predator litigation, making a total of 534 different contacts.





Public Safety Division (continued)

High Technology and Computer Forensics Unit

The Division's High Technology and Computer Crimes provided assistance to local law enforcement with investigations and prosecutions of computer and internet crimes. Forensic examiners performed computer forensic examinations and assisted with the investigation of cases involving the victimization of children. The unit also continued providing technical assistance and advice for the various Divisions of the Attorney General's Office and the citizens of Missouri.

Investigators, along with other divisions of the Attorney General's Office, helped the Joplin Police department and local Internet Crimes Against Children (ICAC) affiliate (South West Missouri Cyber Crime Task Force) with a number of forensic exams as those agencies focused on rebuilding their local infrastructure and recover from the tornado tragedy of May, 2011.

The unit provided services to 17 different agencies in 9 of Missouri's counties and also to law enforcement agencies from outside the state. The staff assisted with 144 separate criminal investigations or technical assists and performed 33 computer forensic examinations. These extensive investigations involved the analysis of more than 18.61 terabytes of data, which represents an increase of approximately 41% over the previous year.

Forensic examiners with the computer crime lab also provided training and public education to a wide variety of groups, including law enforcement agencies, private investigators, and the general public. Some of the more important presentations included internet safety courses to local schools.

